

Message Text

PAGE 01 STATE 195686
ORIGIN INR-07

INFO OCT-01 EUR-12 ISO-00 /020 R

DRAFTED BY INR/RSE: S PLOSS:CAD
APPROVED BY INR/DDR: M PACKMAN
INR/RSE: M MAUTNER
EUR/SOV: L WILLEMS
EUR/RPM: T M SAVAGE

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P R 172152Z AUG 77
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C O N F I D E N T I A L STATE 195686

E.O. 11652: GDS

TAGS: UR, PINT

SUBJECT: NATO ASSESSMENT SERIES CONTRIBUTION

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NATO CLASSIFICATION: CONFIDENTIAL FROM WASHINGTON
NADA/ASSESSMENT/AUGUST 02/MFA WASHINGTON

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POLITICAL ANALYSIS: USSR DRAFT CONSTITUTION

1. BEGIN SUMMARY. THE USSR DRAFT CONSTITUTION, PUBLISHED
ON JUNE 4 AND SCHEDULED FOR FINAL APPROVAL IN OCTOBER,
IS CLEARLY INTENDED AS BREZHNEV'S POLITICAL TESTAMENT.
AS SUCH, IT CAN BE CHARACTERIZED AS MIDDLE OF THE ROAD,
SOVIET-STYLE, AND AS ESSENTIALLY ANTI-STALINIST. BREZHNEV
APPEARS TO HAVE PUSHED THE DRAFT THROUGH NOT ONLY FOR HIS

OWN GLORIFICATION AND WITH THE CSCE FORUM IN MIND, BUT

ALSO TO RAISE FURTHER LEGAL/DOCTRINAL OBSTACLES TO ANY SYSTEMIC REVERSION TO ARBITRARY DESPOTISM AND TERROR; BREZHNEV'S POWER POSITION, HOWEVER, IS NOT APPRECIABLY STRENGTHENED AS A RESULT OF HIS ASSUMPTION OF THE SOVIET "PRESIDENCY" OR THE NEW CONSTITUTION'S ALLOCATION OF MORE FUNCTIONS TO THAT OFFICE.

2. THE DRAFT LARGELY CODIFIES PRACTICES THAT HAVE EVOLVED DURING THE BREZHNEV YEARS, REAFFIRMING THE AUTHORITARIAN BASIS OF THE SOVIET SYSTEM WHILE STIPULATING THAT BUREAUCRATIC POWER IS NOT TO BE USED ARBITRARILY. IT IS ALSO LESS DOGMATIC ON ISSUES OF ECONOMIC AND FOREIGN POLICY THAN HAS BEEN THE CASE WITH RECENT REGIME PRONOUNCEMENTS. CONTROVERSY OVER ECONOMIC ASPECTS OF THE NEW DOCUMENT SURFACED QUICKLY IN THE NATIONWIDE DISCUSSION FOLLOWING ITS PROMULGATION.

3. THE DRAFT IS EVIDENTLY A RESPONSE TO CONFLICTING DOMESTIC PRESSURES: ON THE ONE HAND, MORE TIGHTENING-UP; ON THE OTHER, GENUINE DEMOCRATIZATION. NEITHER OF THESE RADICAL SCHOOLS IS LIKELY TO BE SATISFIED WITH THE CAUTIOUS REVISIONISM THAT MARKS THE "BREZHNEV CONSTITUTION." NOR HAS ITS ARCHITECT ANY ASSURANCE THAT HIS POLITICAL CONFIDENTIAL

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TESTAMENT WILL NOT BE HONORED IN THE BREACH, AS WERE ITS PREDECESSORS. END SUMMARY

4. AN 18-YEAR PROCESS

5. IN 1959, KHRUSHCHEV CALLED FOR A REVISION OF THE 1936 CONSTITUTION, JUSTIFYING THE EXERCISE IN TERMS OF MANY CHANGES BOTH AT HOME AND ABROAD. HE STRESSED IN PARTICULAR THAT THE SOVIET UNION HAD ENTERED A PERIOD IN WHICH THE "BUILDING OF COMMUNISM" HAD BECOME A DIRECT PRACTICAL TASK OF THE PARTY AND PEOPLE. NOT LONG BEFORE KHRUSHCHEV'S OUSTER IN OCTOBER 1964, THE CONSTITUTIONAL COMMISSION, WHICH HE HEADED, WAS PUBLICLY REPORTED TO BE CONDUCTING CLOSED HEARINGS ON VARIOUS PERTINENT TOPICS. BREZHNEV WAS NAMED KHRUSHCHEV'S SUCCESSOR AS CHAIRMAN OF THE CONSTITUTIONAL COMMISSION IN 1964, AND IN JUNE 1966 HE PREDICTED THAT A DRAFT WOULD BE READY FOR THE CELEBRATION OF THE 50TH ANNIVERSARY OF THE BOLSHEVIK REVOLUTION IN 1967. BY 1972, HE WAS SPEAKING IN TERMS OF A 25TH CPSU CONGRESS DATELINE, BUT NO DRAFT WAS FORTHCOMING WHEN THE CONGRESS MET IN THE SPRING OF 1976.

6. ON MAY 24, 1977, HOWEVER, BREZHNEV WITH NO FOREWARNING SUBMITTED A DRAFT OF THE NEW CONSTITUTION TO A PLENUM OF THE CPSU CENTRAL COMMITTEE. THE PLENUM APPROVED OF

THE DRAFT "IN THE MAIN," REMANDING IT TO THE SUPREME

SOVIET PRESIDUM, WHICH WAS TO INITIATE A NATIONWIDE DISCUSSION OF THE CONTENTS. ON MAY 27, BREZHNEV REPORTED ON THE DRAFT TO THE SUPREME SOVIET PRESIDUM; THAT BODY ISSUED A UKAZE APPROVING THE DRAFT "IN THE MAIN," ORDERING THE NATIONWIDE DISCUSSION, AND SCHEDULING PUBLICATION OF THE DOCUMENT FOR JUNE 4. RATIFICATION WAS ENVISAGED AT A SPECIAL MEETING OF THE SUPREME SOVIET IN OCTOBER, THE DRAFT WAS PUBLISHED AS SCHEDULED, AND A FULL TEXT OF BREZHNEV'S REPORT TO THE MAY 24 PLENUM WAS ISSUED
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A DAY LATER. WHILE BREZHNEV'S REPORT EXPLAINED THE NECESSITY FOR A NEW CONSTITUTION ALONG LINES SET FORTH BY KHRUSHCHEV IN 1959, EMPHASIS WAS SHIFTED FROM THE UTOPIAN GOAL OF A FUTURE CLASSLESS AND STATELESS FULL COMMUNISM TO THE EXISTENCE OF AN ALLEGED "ADVANCED AND MATURE SOCIALIST SOCIETY" IN THE USSR.

7. IN CONTRAST TO THIS 18-YEAR PROCESS, THE 1936 VENTURE IN SOVIET CONSTITUTION-MAKING TOOK LESS THAN TWO YEARS: FROM A PARTY PLENUM IN FEBRUARY 1935 TO AN EXTRAORDINARY CONGRESS OF SOVIETS IN NOVEMBER 1936. BREZHNEV TOLD THE 25TH PARTY CONGRESS THAT WORK ON THE DRAFT OF A NEW CONSTITUTION WAS BEING DONE "THOROUGHLY, WITHOUT ANY HASTE, SO AS TO CONSIDER EVERY PROBLEM THAT ARISES WITH THE GREATEST POSSIBLE PRECISION." BUT A GOOD DEAL OF SQUABBLING SEEMS TO HAVE OCCURRED IN THE PARTY LEADERSHIP, TO JUDGE FROM SUCH DEVELOPMENTS AS A QUIET REFURBISHING OF THE CONSTITUTIONAL COMMISSION'S MEMBERSHIP ON MAY 4, 1977, AND THE OUSTER OF "PRESIDENT" PODGORNYY FROM THE PARTY POLITBURO AT THE MAY 24 PLENUM.

8. MASSIVE COERCION DOWNGRADED

9. THE DRAFT CONSTITUTION'S FORMAT DIFFERS FROM THAT OF THE 1936 CONSTITUTION. A PREAMBLE HAS BEEN ADDED WHICH DESCRIBES THE USSR AS A "STATE OF THE WHOLE PEOPLE" RATHER THAN A "SOCIALIST STATE OF WORKERS AND PEASANTS" OR "DICTATORSHIP OF THE PROLETARIAT," AS DID THE 1936 DOCUMENT (CHAPTER I, TITLED "SOCIAL STRUCTURE"). THE "STATE OF THE WHOLE PEOPLE" WAS FIRST ANNOUNCED BY KHRUSHCHEV AT THE 1961 PARTY PROGRAM, EVIDENTLY TO DISCREDIT THE PRACTICE OF UNBRIDLED STATE VIOLENCE AGAINST ENTIRE SOCIAL GROUPS, WHICH HAD BEEN ASSOCIATED WITH
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THE CONCEPT OF PROLETARIAN DICTATORSHIP. UNTIL THIS YEAR, DOCUMENTS OF THE BREZHNEV REGIME PORTRAYED THE "STATE OF THE WHOLE PEOPLE" AS UPHOLDING THE CAUSE OF THE PROLETARIAN DICTATORSHIP. BREZHNEV'S MAY PLENUM

ATTACK ON CRIMES OF THE STALIN ERA AND HIS WARNING THAT

THEY SHOULD NEVER BE REPEATED PROBABLY RELATES TO THIS
DISSOCIATION OF THE TWO CONCEPTS IN THE DRAFT CONSTITUTION.

10. AUTOCRACY WITH SAFEGUARDS

11. A NEW SECTION I, TITLED "PRINCIPLES UNDERLYING THE
SOCIAL, POLITICAL AND ECONOMIC STRUCTURE," HAS REPLACED
THE SHORTER CHAPTER I OF THE 1936 CONSTITUTION.

12. THE AUTHORITARIAN BASIS OF THE SOVIET SYSTEM IS
REAFFIRMED BY GIVING MORE EMPHASIS TO

(A)--THE LEADING ROLE OF THE COMMUNIST PARTY OF THE
SOVIET UNION (I.E., FULL-TIME PARTY WORKERS), AS DISTINCT
FROM GOVERNMENT BUREAUCRATS;

(B)--"DEMOCRATIC CENTRALISM," THE KEY ASPECT OF WHICH
HAS ALWAYS BEEN "MANDATORY FULFILLMENT OF THE DECISIONS
OF HIGHER ORGANS BY LOWER ORGANS."

13. AT THE SAME TIME, SECTION I RESTRICTS THE ARBITRARY
USE OF BUREAUCRATIC POWER. NEW CLAUSES REFLECTING CURRENT
PRACTICES PROVIDE THAT:

(A)--STATE ORGANS BE UNDER THE CONTROL OF AND ACCOUNTABLE
TO THE SOVIETS (LOCALLY ELECTED GOVERNMENT COUNCILS);

(B)--ALL OFFICIALS OBSERVE THE LAW;

(C)--MASS PUBLIC ORGANIZATIONS PARTICIPATE IN THE ADMINIS-
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TRATION OF STATE AND SOCIETY; AND

(D)--PUBLICITY AND CONSTANT ACCOUNT OF PUBLIC OPINION
BE EXTENDED.

14. ECONOMIC EFFICIENCY

15. AS LATE AS THE 25TH PARTY CONGRESS, THE REGIME
RECOMMITTED ITSELF TO THE TIME-HONORED GOAL OF HEAVY
INDUSTRIALIZATION. "THE PIVOT OF THE PARTY'S ECONOMIC
STRATEGY BOTH FOR THE TENTH FIVE-YEAR PLAN AND FOR LONG-
TERM DEVELOPMENT," BREZHNEV TOLD THE CONGRESS, WAS "STABLE,
BALANCED GROWTH OF HEAVY INDUSTRY AS THE FOUNDATION
OF THE ECONOMY." AN ENJOINDER FOR BROADER USE OF THE
PROFIT MOTIVE WITHIN THE FRAMEWORK OF CENTRALIZED PLANNING
WAS DROPPED FROM THE DRAFT "MAIN LINES OF ECONOMIC
DEVELOPMENT OF THE USSR FOR 1976-80," WHICH THE 25TH
CONGRESS AMENDED AND ADOPTED.

16. IN CONTRAST, THE DRAFT CONSTITUTION IGNORES HEAVY INDUSTRY AND URGES "FULLEST POSSIBLE SATISFACTION OF THE PEOPLE'S GROWING MATERIAL AND SPIRITUAL REQUIREMENTS" AS THE "SUPREME PURPOSE OF SOCIAL PRODUCTION UNDER SOCIALISM." IT CALLS FOR "BALANCED DEVELOPMENT OF THE NATIONAL ECONOMY," RATHER THAN HEAVY INDUSTRY ALONE. THE DRAFT FURTHER APPROVES ENERGETIC USE OF PROFIT IN INDUSTRIAL OPERATIONS.

17. DUE ACCOUNT IS TO BE TAKEN OF TERRITORIAL PRINCIPLES OF PLANNING, AND CENTRALIZED LEADERSHIP IS TO BE COMBINED WITH THE ECONOMIC INDEPENDENCE AND INITIATIVE OF ENTERPRISES AND ASSOCIATIONS. THIS MILDLY DECENTRALIZING THRUST ON THE INDUSTRIAL MANAGEMENT FRONT IS IN HARMONY
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WITH BREZHNEV'S APPARENT ENCOURAGEMENT OF REGIONAL PRODUCTION TRUSTS (TPKS), WHICH HAVE MANAGEMENT RIGHTS USUALLY EXERCISED BY THE MOSCOW-BASED MINISTRIES.

18. IN AGRICULTURE, HOWEVER, INDIVIDUAL HOUSEHOLD PLOTS AND THE FREE MARKET FOR SOME FARM OUTPUT ARE MORE NARROWLY DEFINED THAN WAS THE CASE IN 1936; CITIZENS "MAY" HAVE SUCH PLOTS, BUT THEIR USE "SHALL NOT BE A MEANS OF DERIVING NONEARNED INCOMES OR DAMAGING SOCIETY." OFFSETTING THIS UNPOPULAR STRICTURE AGAINST TOO MUCH PRIVATE INITIATIVE IN RURAL AREAS ARE RENEWED PROMISES THAT THE STATE WILL PROMOTE THE ELIMINATION OF DISTINCTIONS BETWEEN TOWN AND COUNTRY-SIDE AND TRANSFORM VILLAGES INTO WELL-APPOINTED SETTLEMENTS.

19. INTERESTINGLY ENOUGH, ONE OF THE INITIAL STATEMENTS IN THE NATIONWIDE DISCUSSION OF THE DRAFT WAS A LETTER, OSTENSIBLY FROM SIBERIAN WORKERS, REQUESTING THAT A CLAUSE IN THE ECONOMICS CHAPTER ABOUT NEED TO COMBINE "MATERIAL AND MORAL INCENTIVES"--MONETARY REWARD AND COMMUNIST EXHORTATION--GIVE PRIMACY OF PLACE TO MORAL INCENTIVES SO AS TO "REFLECT THE GROWING CONSCIOUSNESS OF SOVIET PEOPLE AND AFFIRMATION OF THE COMMUNIST ATTITUDE TOWARD WORK IN OUR SOCIETY" (IZVESTIYA, JUNE 11, 1977).

20. OTHER CONSERVATIVE PROPOSALS TO AMEND THE DRAFT WERE MADE BY:

(A)--A LENINGRAD ECONOMIST WHO FAVORED DELETION OF THE DRAFT'S REFERENCE TO PROPERTY OF THE TRADE UNIONS AND OTHER PUBLIC ORGANIZATIONS AS A FORM OF SOCIALIST PROPERTY BECAUSE SUCH RECOGNITION MIGHT RAISE AN OBSTACLE TO ACHIEVING THE DOCTRINAL GOAL OF SOCIAL-ECONOMIC HOMOGENEITY (IZVESTIYA, JULY 17, 1977); AND

(B)--THE DIRECTOR OF THE UKRAINIAN ACADEMY OF SCIENCES'
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STATE AND LAW INSTITUTE, WHO ASKED FOR EXCISION OF ANY MENTION OF "PROFIT" ON GROUNDS THAT SUCH MATTERS ARE COVERED IN SUCH LEGISLATIVE ACTS AS THE STATUTE ON THE SOCIALIST ENTERPRISE (IZVESTIYA, JULY 21, 1977).

21. FOREIGN AND DEFENSE POLICY

22. SECTION I OF THE DRAFT CONSTITUTION INCLUDES SEPARATE CHAPTERS DEVOTED TO FOREIGN AND DEFENSE POLICY, WHICH WERE NOT SINGLED OUT FOR SPECIAL TREATMENT IN THE 1936 CONSTITUTION.

23. THE LISTING OF FOREIGN POLICY GOALS IS VIRTUALLY IDENTICAL TO THE ONE THAT BREZHNEV PRESENTED TO THE 24TH PARTY CONGRESS IN 1971 AND GROMYKO REPEATED ON THE EVE OF THE 25TH CONGRESS (KOMMUNIST, NO. 14, 1975). OMITTED IS MERELY THE TOUGH APPEAL FOR A "DECISIVE REBUFF TO AGGRESSIVE FORCES OF IMPERIALISM." (IN A SEEMINGLY RHETORICAL CHANGE, "AVERT AGGRESSIVE WARS" IS SUBSTITUTED FOR "DELIVER MANKIND FROM A NEW WORLD WAR.") THE GENERAL PRINCIPLES OF FOREIGN POLICY OUTLINED ARE MOSTLY THOSE EMBODIED IN THE FINAL ACT OF THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE AND APPROVED BY SOVIET RULING COUNCILS UPON BREZHNEV'S RETURN FROM HELSINKI (PRAVDA, AUGUST 7, 1975).

24. THE ARMED FORCES ARE ASSURED THAT THEY WILL BE EQUIPPED WITH "EVERYTHING NECESSARY" TO CARRY OUT DEFENSIVE TASKS. FORMATION OF A USSR DEFENSE COUNCIL IS AMONG THE FUNCTIONS DELEGATED TO THE SUPREME SOVIET PRESIDUM, BUT THE ACTIVITIES OF THIS BODY, WHICH ALREADY EXISTS AND IS CHAIRED BY BREZHNEV, ARE NOT DEFINED.

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25. MORE SOVIET RIGHTS--AND DUTIES

26. THE DRAFT ENHANCES THE IMPORTANCE OF CITIZENS' RIGHTS AND DUTIES IN SECTION II, "STATE AND INDIVIDUAL," PARALLELING CHAPTER X IN THE 1936 CONSTITUTION.

27. GUARANTEES OF ECONOMIC, SOCIAL, AND CULTURAL RIGHTS HAVE BEEN EXPANDED. NEW RIGHTS INCLUDE HOUSING, HEALTH PROTECTION, AND USE OF CULTURAL ACHIEVEMENTS.

28. DISTINCTION BETWEEN RIGHTS AND DUTIES IS, HOWEVER, BLURRED, WITH THE RIGHT TO WORK BECOMING A DUTY TO WORK.

AND DE FACTO LIMITATIONS ON THE EXERCISE OF CIVIL AND POLITICAL RIGHTS ARE EXPRESSED FAR MORE CLEARLY THAN WAS THE CASE IN 1936. A CAVEAT--"THE EXERCISE BY CITIZENS

OF RIGHTS AND FREEDOMS MUST NOT HARM THE INTERESTS OF SOCIETY AND THE STATE"--IS REPEATED IN EACH OF THE ARTICLES DEALING WITH CIVIC AND POLITICAL RIGHTS, WHICH GRANT THOSE RIGHTS SPECIFICALLY "IN CONFORMITY WITH THE INTERESTS OF THE WORKING PEOPLE" OR "IN CONFORMITY WITH THE AIMS OF BUILDING COMMUNISM."

29. DUTIES OF CITIZENS HAVE BEEN ENLARGED TO INCLUDE

(A)--GUARDING THE INTERESTS OF THE STATE AND CONTRIBUTING TO ITS MIGHT AND AUTHORITY;

(B)--CONSCIENTIOUS WORK;

(C)--RESPECT OF THE NATIONAL DIGNITY OF OTHER CITIZENS;

(D)--DEVOTION TO THE UPBRINGING OF CHILDREN;

(E)--PROTECTION OF NATURE; AND

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(F)--PRESERVATION OF HISTORICAL MONUMENTS AND OTHER CULTURAL VALUES.

THE LANGUAGE OF PROVISIONS FOR RANK-AND-FILE SUBMISSION OF PROPOSALS FOR IMPROVING THE WORK OF STATE AND PUBLIC ORGANIZATIONS MAKES IT OBVIOUS THAT SUCH PROPOSALS ARE TO BE ONLY OF A "CONSTRUCTIVE" NATURE.

30. DISSIDENTS HAD REPORTED THAT THE DRAFT MIGHT MENTION THE RIGHT TO LEAVE THE USSR AND RETURN THERETO, BUT THIS FAILED TO MATERIALIZE. THE OLD ARTICLE ON RELIGIOUS FREEDOM REMAINS INTACT, DESPITE REPORTED CRITICISM OF THE INEQUITY OF THE PROVISION ALLOWING BOTH FREEDOM OF RELIGION AND FREEDOM TO CONDUCT ATHEISTIC PROPAGANDA.

31. RUSSIAN ASCENDANCY

32. SECTION III, "STATE AND NATIONAL STRUCTURE OF THE USSR" (CORRESPONDING TO CHAPTER II, "STATE STRUCTURE," IN THE 1936 DOCUMENT), GOES INTO SOMEWHAT GREATER DETAIL TO SPECIFY THE POWERS OF CENTRAL GOVERNMENTAL ORGANS AND STILL RESERVES FOR EACH UNION REPUBLIC THE ILLUSORY "RIGHT FREELY TO SECEDE." DESCRIPTION OF THE USSR ECONOMY AS A "SINGLE NATIONAL ECONOMIC COMPLEX" IS EVIDENTLY MEANT TO DISCOURAGE SELF-SUFFICIENCY TENDENCIES IN THE REPUBLICS, WHILE LEGALIZATION OF THE CONTROVERSIAL SLOGAN

OF "NEW HISTORICAL COMMUNITY OF PEOPLE, THE SOVIET PEOPLE"
SHOULD GIVE FRESH IMPETUS TO CULTURAL RUSSIFICATION.

33. THIS SLOGAN WAS INTRODUCED BY KHRUSHCHEV IN 1961
AT THE 22ND PARTY CONGRESS AND RESURRECTED BY BREZHNEV
IN 1971 AT THE 24TH PARTY CONGRESS. A REPORT ON AN
"INTERNATIONAL EDUCATION" CONFERENCE HELD IN 1966 IN
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RIGA, LATVIA, REVEALS THAT LOCAL OFFICIALS TOOK
KHRUSHCHEV'S WORDS AS A SIGNAL TO REDUCE THE NUMBER
OF PUBLICATIONS AND BROADCASTS IN LOCAL LANGUAGES AND
IN GENERAL TO SHOW LESS CONCERN FOR NON-RUSSIAN MINORI-
TIES. INCIDENTALLY, "GREAT RUSSIA" (VELIKAYA RUS')
WAS AGAIN HAILED IN THE OTHERWISE DE-STALINIZED TEXT
OF THE USSR NATIONAL ANTHEM WHICH THE SUPREME SOVIET
PRESIDIUM RATIFIED ON MAY 27, 1977.

34. SOVIET CONTROL

35. SECTION IV, "SOVIETS AND THEIR ELECTION PROCEDURE,"
AN AUGMENTED VERSION OF CHAPTERS VIII (LOCAL ORGANS
OF STATE POWER") AND XI ("ELECTORAL SYSTEM") OF THE 1936
CONSTITUTION, FURTHER ENCOURAGES UNIFORMITY AND COOR-
DINATION. THE SOVIETS (COUNCILS) FROM TOP TO BOTTOM
ARE DESCRIBED AS CONSTITUTING "AN INTEGRAL SYSTEM OF
ORGANS OF STATE POWER." IN ACCORD WITH THE ADOPTION
OF THE PHRASE "STATE OF THE WHOLE PEOPLE," THE SOVIETS
ARE NOW TITLED "SOVIETS OF PEOPLE'S DEPUTIES" INSTEAD
OF "SOVIETS OF WORKERS' DEPUTIES." THEY WILL TAKE CHARGE
OF "PEOPLE'S CONTROL ORGANS," OR BUREAUCRATIC INSPEC-
TION GROUPS, WHICH IN RECENT YEARS WERE UNDER A COMMITTEE
ATTACHED TO THE COUNCIL OF MINISTERS, OR GOVERNMENT
STAFF. DEPUTIES/REPRESENTATIVES MUST BE GUIDED BY "THE
INTERESTS OF THE WHOLE STATE" AND ARE TO SERVE ON A
PART-TIME BASIS. TERMS OF OFFICE ARE TO BE LENGTHENED,
AND 18-YEAR-OLDS WILL NOW BE ELIGIBLE FOR ELECTION AS
WELL AS VOTING.

36. CENTRAL GOVERNMENT

37. THE NEXT FIVE SECTIONS OF THE DRAFT CONSTITUTION
ROUGHLY COINCIDE WITH THE STRUCTURE OF THE 1936 CONSTI-
TUTION.

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38. THE PRESIDIUM OF THE USSR SUPREME SOVIET, WHICH
LEGALLY IS A COLLEGIAL PRESIDENCY, IS NOW DESIGNATED
A "CONTINUOUSLY FUNCTIONING BODY," RATHER THAN SIMPLY

FUNCTIONING VICE THE SUPREME SOVIET DURING ITS RECESSES. CREATION OF A NEW POST OF FIRST DEPUTY CHAIRMAN OF THE PRESIDIUM WILL ALLOW THE CHAIRMAN--"PRESIDENT"--TO DELEGATE A LARGE SHARE OF TIME-CONSUMING PROTOCOL ACTIVITIES. THE FOLLOWING ADDITIONAL FUNCTIONS ALLOCATED TO THE PRESIDIUM PROVIDE BREZHNEV WITH LEGAL JUSTIFICATION--IN

ADDITION TO HIS INHERENT PARTY RIGHTS AS GENERAL SECRETARY--TO MONITOR THE PERFORMANCE OF THE COUNCIL OF MINISTERS, WHICH UNDER PREMIER KOSYGIN APPEARS NOT TO HAVE ALWAYS BEEN FULLY RESPONSIVE TO PARTY DIRECTIVES. THE PRESIDIUM NOW IS TO

(A)--FORM THE USSR PEOPLE'S CONTROL COMMITTEE, WHICH HEADS THE SYSTEM OF PEOPLE'S CONTROL BODIES;

(B)--COORDINATE THE ACTIVITY OF SUPREME SOVIET PERMANENT COMMISSIONS, WHICH WERE ENTRUSTED SEVERAL YEARS AGO WITH "SUPERVISION OF THE ACTIVITY OF STATE BODIES AND ORGANIZATIONS," AND APPARENTLY DIRECT THE WORK OF AD HOC INQUIRY AND AUDITING COMMISSIONS OF THE SUPREME SOVIET, THE DEMANDS OF WHICH MUST BE FULFILLED BY ALL STATE OFFICIALS; AND

(C)--FORM AND ABOLISH USSR MINISTRIES AND STATE COMMITTEES "ON THE PROPOSAL OF" THE USSR COUNCIL OF MINISTERS, IN ADDITION TO NAMING AGENCY HEADS AS SET FORTH IN THE 1936 CONSTITUTION, A RIGHT EXERCISED IN THE PAST WITHOUT CONSTITUTIONAL SANCTION.

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39. THE DRAFT'S CHAPTER ON THE COUNCIL OF MINISTERS NO LONGER LISTS THE MINISTRIES RUNNING THOSE VARIOUS BRANCHES OF THE STATE ADMINISTRATION WHICH THE COUNCIL DIRECTS AND COORDINATES. BREZHNEV HAS SOUGHT TO LIMIT THE AUTHORITY OF STATE EXECUTIVES, AND HIS MAY PLENUM RATIONALE FOR OMITTING A LISTING OF MINISTRIES ("THEIR COMPOSITION CHANGES FROM TIME TO TIME") MAY HAVE VEILED A DESIRE TO WITHHOLD CONSTITUTIONAL LEGITIMACY, AND THUS STABILITY, FROM CERTAIN MINISTRIES EARMARKED FOR MERGER OR ABOLITION. THE DRAFT FURTHER PRESCRIBES THAT THE COUNCIL OF MINISTERS "REGULARLY ACCOUNTS FOR ITS WORK TO THE USSR SUPREME SOVIET" AND ISSUES DECREES AND ORDERS ON THE BASIS AND IN PURSUANCE OF SUPREME SOVIET UKASES, AND NOT JUST LAWS, AS WAS THE CASE PREVIOUSLY. THIS PROCEDURE WILL ENSURE SPEEDIER RESPONSES BY THE GOVERNMENT TO SUPREME SOVIET WISHES.

40. LEGALITY

41. THE NEW CONSTITUTIONAL ARTICLES PROVIDING FOR A

JUDICIAL SYSTEM FORMALIZE THE POST-STALIN TERMINATION OF EXTRA-LEGAL PUNISHMENT BY SPECIAL BODIES OF THE SECRET POLICE, NOTING THAT

(A)--"IN THE USSR JUSTICE SHALL BE ADMINISTERED EXCLUSIVELY BY COURTS OF LAW."

(B)--"NO PERSON SHALL BE CONSIDERED GUILTY OF COMMITTING A CRIME AND SUBJECTED TO CRIMINAL PUNISHMENT OTHER THAN BY A VERDICT OF THE COURT AND IN CONFORMITY WITH CRIMINAL LAW."

THE PROCURATOR-GENERAL, WHO IS APPOINTED BY THE SUPREME SOVIET AND EXERCISES "SUPERVISORY POWER OVER THE PRECISE AND UNIFORM EXECUTION OF LAWS" BY OFFICIALS, IS NOW HELD RESPONSIBLE AND ACCOUNTABLE TO THE SUPREME SOVIET
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OR ITS PRESIDUM.

42. THE TRADITIONALLY AVOWED INDEPENDENCE OF JUDGES WILL PROBABLY CONTINUE TO BE INTERPRETED AS NOT SIGNIFYING THEIR INDEPENDENCE FROM PARTY POLICY. BUT A REFORMIST PROPOSAL TO MODIFY THE DRAFT CONSTITUTION'S ARTICLES ON LEGALITY WAS MADE BY PROF. V. M. SAVITSKIY, CHIEF OF A SECTOR AT THE USSR ACADEMY OF SCIENCES' INSTITUTE OF STATE AND LAW, WRITING IN IZVESTIYA ON JULY 3, 1977. PROBABLY MINDFUL OF THE SUPPRESSION BY PARTY SECRETARIES OF CASES AGAINST HIGHLY PLACED OFFICIALS AND OF KGB INTIMIDATION OF JURISTS, SAVITSKIY SAW "GREAT PRACTICAL SENSE" IN ADDING TO ARTICLE 154 ("JUDGES AND PEOPLE'S ASSESSORS SHALL BE INDEPENDENT AND SUBJECT ONLY TO THE LAW"): "NO ONE HAS THE RIGHT TO INTERFERE WITH THE ADMINISTRATION OF JUSTICE AND EXERT ANY SORT OF INFLUENCE ON JUDGES AND PEOPLE'S ASSESSORS DURING THEIR DISCHARGE OF DUTIES IN THE COURT. ANY SORT OF ACTIONS AIMED AT COERCING JUDGES OR PEOPLE'S ASSESSORS TO REACH A CERTAIN DECISION IS PROSECUTED ACCORDING TO LAW."

43. SAVITSKIY ALSO REVIVED THE IDEA OF INTRODUCING AN EXPLICIT PRESUMPTION OF INNOCENCE INTO THE LEGAL SYSTEM, WHICH REMAINS A MIXTURE OF RUSSIAN TRADITIONALISM AND NAPOLEONIC CODE. HE URGED REVISION OF ARTICLE 157 ("THE DEFENDANT SHALL BE GUARANTEED THE RIGHT OF DEFENSE.") AS FOLLOWS: "THE ACCUSED IS REGARDED AS INNOCENT UNTIL HIS GUILT IN THE COMMISSION OF A CRIME IS PROVEN IN A MANNER ENVISAGED BY LAW AND IS ESTABLISHED BY THE SENTENCE OF THE COURT TAKING LEGAL EFFECT. THE DEFENDANT HAS THE RIGHT OF DEFENSE. THE USE OF THIS RIGHT IS GUARANTEED BY LAW."

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44. MOTIVES AND PRESSURES

45. THE SOVIET LEADERS' MOTIVES FOR ISSUING A NEW CONSTITUTION AT THIS TIME WERE ASSUREDLY MIXED. BREZHNEV MAY HAVE PROVIDED ONE CLUE IN HIS 1977 MAY PLENUM REPORT, WHICH OBLIQUELY ALLUDES TO WESTERN CHARGES OF SOVIET NON-

COMPLIANCE WITH THE HUMAN RIGHTS PROVISIONS OF THE HELSINKI ACCORDS:

46. "OUR NEW CONSTITUTION WILL DEMONSTRATE TO THE WHOLE WORLD HOW THE SOCIALIST STATE DEVELOPS, ASSERTING SOCIALIST DEMOCRACY MORE SOLIDLY AND DEEPLY, WILL DEMONSTRATE WHAT SOCIALIST DEMOCRACY IS LIKE AND WHEREIN LIES ITS ESSENCE. OUR CONSTITUTION WILL SHOW THE DIVERSITY OF FORMS AND THE TREMENDOUS SCOPE OF THE CONSTANTLY GROWING AND REAL PARTICIPATION OF THE BROAD POPULAR MASSES IN MANAGING THE AFFAIRS OF STATE AND SOCIETY, SOMETHING NOT KNOWN IN BOURGEOIS COUNTRIES WHERE THE REAL RULERS ARE THE SMALL CLASS OF CAPITALISTS.

47. "READING OUR NEW CONSTITUTION, PEOPLE WILL SEE WITH GREATER CLARITY HOW BROAD AND VARIED ARE THE RIGHTS AND FREEDOMS OF CITIZENS IN SOCIALIST SOCIETY.

48. "IN IT THE WORLD WILL SEE A STATE WHICH MAKES ITS GOAL CONSTANT GROWTH OF THE WELFARE AND CULTURE OF THE WHOLE PEOPLE, ALL THE CLASSES AND GROUPS WITHOUT EXCEPTION, AND ACTIVELY WORKS TOWARDS THAT GOAL....

49. "TO THE PERVERTED AND VULGARIZED INTERPRETATION OF DEMOCRACY AND HUMAN RIGHTS BY THE BOURGEOIS AND REVISIONIST PROPAGANDA WE OPPOSE THE MOST COMPLETE AND REAL COMPLEX OF RIGHTS AND DUTIES OF THE CITIZENS OF SOCIALIST SOCIETY."

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SO MOSCOW HAS ORGANIZED A PROPAGANDA CAMPAIGN AROUND ITS DRAFT CONSTITUTION WITH A VIEW TOWARD DIVERTING BOTH DOMESTIC AND FOREIGN ATTENTION FROM THE REPRESSION OF SOVIET DISSIDENTS TO THE ECONOMIC SECURITY THAT USSR CITIZENS ALLEGEDLY ENJOY. AT THE SAME TIME, THE NEW CONSTITUTION'S GREATER ACCENT ON THE DUTIES THAT ACCOMPANY SOVIET CITIZENS' RIGHTS WILL ALSO SERVE TO DAMPEN ANY HOPES OF AN EASING OF INTERNAL CONTROLS IN THE WAKE OF CSCE.

50. SOME OBSERVERS GO SO FAR AS TO VIEW THE NEW USSR

CONSTITUTION AS A CLEAR-CUT VICTORY FOR BREZHNEV, WHO IN ASSUMING THE "PRESIDENCY" ON JUNE 16 ALLEGEDLY BECAME SO STRONG POLITICALLY THAT HE NO LONGER NEEDS TO OBSERVE THE FORMALITIES OF COLLECTIVE POLITBURO LEADERSHIP. IT REMAINS TO BE SEEN, HOWEVER, WHETHER BREZHNEV'S INCREASING PHYSICAL DEBILITY WILL ALLOW HIM ACTUALLY TO EXERCISE HIS "PRESIDENTIAL" POWERS. TO BE SURE, THE ACTUAL POWERS HAVE NOT BEEN GREATLY ENLARGED, ONLY

HIS CONSTITUTIONAL RIGHT TO EXERCISE THEM. IT IS MOOT WHETHER THEY STEM FROM BREZHNEV'S ROLE AS PARTY BOSS OR AS "PRESIDENT." WE BELIEVE, HOWEVER, THAT IF BREZHNEV'S SUCCESSOR AS "PRESIDENT" IS NOT ALSO PARTY GENERAL SECRETARY HE MOST LIKELY WILL BE DISINCLINED TO ATTEMPT TO EXERCISE THEM.

51. VIEWED FROM THE ANGLE OF BREZHNEV'S AGE (70) AND PHYSICAL STATE, THE DRAFT CONSTITUTION CAN BE READ AS HIS POLITICAL TESTAMENT. ONE SUCH TESTAMENT IN SOVIET HISTORY WAS THE COLLECTION OF LETTERS, ARTICLES, AND MEMOS THAT LENIN WROTE IN 1922-23 FOR THE PURPOSE OF WARDING OFF A LEADERSHIP SPLIT AND CURBING BUREAUCRATISM
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AT THE LOWER ECHELONS. ANOTHER WAS STALIN'S 1952 TREATISE ON ECONOMICS, WHICH CAUTIONED AGAINST BOTH REFORMISM AT HOME AND THE PURSUIT OF A FORWARD POLICY ABROAD. BREZHNEV, LIKE LENIN AND STALIN BEFORE HIM, SEEMS TO HAVE HIS FEARS ABOUT THE FUTURE, AND THE FOREMOST APPEARS TO BE THAT AFTER HIS DEMISE THERE MIGHT BE A TENDENCY TO REVERT TO SOME OF STALIN'S POLITICAL METHODS. IF SO, THE NEW CONSTITUTION COULD THEN BE INTERPRETED AS A DOCTRINAL AND LEGAL OBSTACLE TO ANY USSR REVERSION TO ARBITRARY DESPOTISM AND TERROR AS A SYSTEM OF RULE.

52. NEITHER THE BUREAUCRATIC DIEHARDS NOR THE INTELLECTUAL REFORMERS ARE LIKELY TO BE SATISFIED WITH THE CAUTIOUS REVISIONISM THAT MARKS THE "BREZHNEV CONSTITUTION." NOR CAN ITS ARCHITECT BE SURE THAT HIS POLITICAL TESTAMENT WILL HAVE GREATER FORCE THAN THOSE OTHERS OF THE PAST WHICH WERE IGNORED OR DENOUNCED BY THE HEIRS TO POWER. PARTY, NOT SOVIET, BODIES ARE TO REMAIN SOVEREIGN ORGANS IN THE USSR, AND IT IS THE CONFIGURATION OF POWER WITHIN THE PARTY'S HIGH COMMAND WHICH WILL CONTINUE TO CHART THE COURSE OF SOVIET POLICY AND DEVELOPMENT. VANCE

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Message Attributes

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Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE195686
Document Source: ADS
Document Unique ID: 00
Drafter: INR/RSE: S PLOSS:CAD
Enclosure: n/a
Executive Order: 11652 GDS
Errors: n/a
Expiration:
Film Number: D770297-1026
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From: STATE
Handling Restrictions: n/a
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Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 12
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
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Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1445928
Secure: OPEN
Status: NATIVE
Subject: NATO ASSESSMENT SERIES CONTRIBUTION
TAGS: PINT, UR
To: OIC PTC INFO ALL NATO CAPITALS MULTIPLE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/50e85751-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009